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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Mark Brnovich, *et al.*,
Plaintiffs,
v.
Joseph R. Biden, *et al.*
Defendants.

No. 2:21-cv-01568-MTL

**JOINT STIPULATION
REGARDING CLAIMS AGAINST
CITY OF PHOENIX**

1 Pursuant to the discussion during the status conference on December 14, 2021 and
2 the Court's subsequent minute entry, the Parties hereby stipulate to the following:

- 3
- 4 • Plaintiffs PLEA and Local 493 are asserting Counts I, IV, and VI against
5 Defendant City of Phoenix. No other Plaintiffs are asserting claims against the
6 City of Phoenix.

7 Plaintiffs PLEA and Local 493 seek declaratory relief from this Court that the
8 Contractor Mandate is unconstitutional and unlawful under Counts I, IV, and VI. Plaintiffs
9 PLEA and Local 493 take the position that under the Declaratory Judgment Act, 28 U.S.C.
10 § 2201(a), "any court of the United States, upon the filing of an appropriate pleading, may
11 declare the rights and other legal relations of any interested party seeking such declaration,
12 whether or not further relief is or could be sought." (*See* Doc. 70 at 69 ¶¶ A and D (invoking
13 28 U.S.C. § 2201)).

14 It is the position of Plaintiffs PLEA and Local 493 that the City of Phoenix is a
15 proper relief defendant, and that the test for whether a defendant is a proper relief defendant
16 under 28 U.S.C. § 2201 is whether the court "would have jurisdiction had the declaratory
17 relief defendant been a plaintiff seeking a federal remedy." *Standard Ins. Co. v. Saklad*,
18 127 F.3d 1179, 1181 (9th Cir. 1997); accord *Hornish v. King Cty.*, 899 F.3d 680, 691 n.4
19 (9th Cir. 2018). Plaintiffs PLEA and Local 493 contend that because the City of Phoenix
20 is subject to the Contractor Mandate and would thus have standing to seek a federal remedy,
21 it is properly named as a relief defendant. Plaintiffs PLEA and Local 493 are asserting
22 these claims against Phoenix as a relief defendant only; they do not allege that Phoenix is
23 liable under or has breached the duties alleged in Counts I, IV, or VI.

1 The City of Phoenix does not concede that the above claims state a claim for relief
2 against the City of Phoenix, that the City is a proper defendant, or that the Court has
3 jurisdiction.
4

RESPECTFULLY SUBMITTED this 17th day of December, 2021.

**MARK BRNOVICH
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By: /s/ James K. Rogers
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CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of December, 2021, I electronically filed the foregoing with the Clerk of the Court for the United States District Court for the District of Arizona using the CM/ECF filing system. Counsel for all Defendants, who have appeared, are registered CM/ECF users and will be served by the CM/ECF system pursuant to the notice of electronic filing.

/s/ James K. Rogers
*Attorney for Plaintiff Mark Brnovich, in his official
capacity as Attorney General of Arizona; and the State of
Arizona*